



By electronic delivery

May 5, 2010

Ms. Jennifer J. Johnson  
Secretary, Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

Re: Docket No. R-1384

Dear Ms. Johnson:

HSBC Bank Nevada, National Association ("HSBC") submitted a comment letter on April 14 in response to the proposed amendments to Regulation Z ("Proposed Rule") issued by the Board of Governors of the Federal Reserve System ("Board") to implement the penalty fee and account review provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (the "CARD Act"). A significant numeric typographical error existed in Section I(A)(3)<sup>1</sup> of HSBC's prior comment letter, and we ask that you accept this corrected submission of that subsection.

**3. The final rule should allow a card issuer to consider the cost of rightfully assessed, but uncollected, penalty fees in the cost methodology.**

Should issuers follow the Board's example in Staff Comment .52(b)(1)(i)-4(ii)(A), they would not be able to fully recoup the costs associated with delinquent customers. Under the provided example, if a card issuer determined that 1 million delinquencies resulted in \$23 million in costs, it would only recover the \$23 million in costs if each and every delinquent cardholder actually paid the assessed \$23 penalty fee. In fact, a significant amount of penalty fees assessed are never collected. For example, the outstanding balance, which includes assessed late fees, may charge off. Additionally, late fees may be waived under a hardship or Servicemembers Civil Relief Act program, or simply as a customer courtesy. In the above example, if an issuer assessed a \$23 late fee, they may only recoup \$12 million to \$17 million its actual determined costs. HSBC urges the Board to allow use of a cost methodology formula based on *collected* fees.

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Allowing use of such a formula would ensure that determined penalty-related costs are fully allocated to cardholders who exhibit penalty conduct, and would avoid having the cost of uncollected penalty fees being allocated to cardholders who do not demonstrate risky behavior, for example, through increased APRs or annual fees.

HSBC appreciates the Board's consideration of this correction. Please do not hesitate to contact James Hanley at (952) 564-7600 or Donna Radzik at (224) 544-2952 in connection with this comment letter.

Sincerely,

James Hanley  
Senior Counsel

Donna Radzik  
Associate General Counsel